

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

YOONJUNG SUL CHO,

Plaintiff,

v.

Case No.: 2:23-cv-674-JES-KCD

PRESIDENTIAL VAN LINES,
LLC,

Defendant.

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REPORT & RECOMMENDATION

Plaintiff Yoonjung Sul Cho sues Presidential Van Lines, LLC for conversion and breach of contract related to charges for a residential move from Naples, Florida to Southlake, Texas. (Doc. 1.) Because Plaintiff has not diligently prosecuted this case, the undersigned recommends dismissal.

The Court dismissed the original complaint for lack of subject matter jurisdiction because Plaintiff failed to provide information regarding the individual members of the Defendant limited liability company. (Doc. 3.) Plaintiff amended (Doc. 4), but the amended complaint failed to address the Court's concerns. Thus, the Court directed Plaintiff to file a second amended complaint demonstrating federal jurisdiction by October 9, 2023, and to pay the filing fee or move to proceed *in forma pauperis* by the same date. (Doc. 6.) Plaintiff has done neither and the deadline passed.

Ignoring the Court's order is grounds to recommend dismissal for lack of prosecution. "A plaintiff's failure to prosecute diligently can result in dismissal if the plaintiff in response to an order to show cause fails to demonstrate due diligence and just cause for delay." M.D. Fla. R. 3.10. Similarly, the Court has the "inherent power" to dismiss a case for lack of prosecution under its authority to manage its docket. *Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962).

Cho has not diligently prosecuted this case because she failed to comply with the Court's order to file a second amended complaint and to pay the filing fee. This failure shows her lack interest in prosecuting her case. Thus, the Court should dismiss this matter without prejudice.

Recommended in Fort Myers, Florida on October 13, 2023.



Kyle C. Dudek
United States Magistrate Judge

NOTICE TO PARTIES

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1. To expedite resolution, parties may file a joint notice waiving the 14-day objection period.